



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

**URGENT LEGAL MATTER
REQUIRES PROMPT RESPONSE**

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
APR 16 2014

Mr. David Glendon, President and CEO
Sprague Operating Resources, LLC
185 International Drive
Portsmouth, NH 03801

Re: Notice of Violation

Dear Mr. Glendon:

The U.S. Environmental Protection Agency, Region 1 ("EPA") is issuing Sprague Operating Resources, LLC ("Sprague") the enclosed Notice of Violation ("NOV") for violations of the Clean Air Act.

The NOV addresses EPA's findings that Sprague has violated and is still in violation of requirements in the Maine State Implementation Plan regarding stationary source construction and operation, including certain New Source Review provisions. The violations occurred at Sprague's facilities located in Searsport, Maine and in South Portland, Maine.

You may confer with EPA about the enclosed NOV and its findings. To schedule a conference, please contact Elizabeth Kudarauskas of my staff at (617) 918-1564 or have your legal counsel contact Thomas Olivier of my staff at (617) 918-1737 within fourteen (14) days of your receipt of this letter and the enclosed NOV.

Sincerely,

Susan Studlien, acting for

Susan Studlien, Director
Office of Environmental Stewardship

Enclosure

cc: Kurt Tidd, MEDEP (via email)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND**

IN THE MATTER OF)

Sprague Operating Resources, LLC)
Two International Drive, Suite 200)
Portsmouth, NH 03901)

Proceeding under Section)
113 of the Clean Air Act)
_____)

NOTICE OF VIOLATION

STATUTORY AUTHORITY

1. The United States Environmental Protection Agency, Region 1 (“EPA”) issues this Notice of Violation (“NOV”) to Sprague Operating Resources, LLC (“Sprague”) under the authority of Section 113(a)(1) of the Clean Air Act (“CAA” or “the Act”), 42 U.S.C.

§ 7413(a)(1), for violations of the Act at Sprague’s facilities in Searsport, Maine (“the Searsport Facility”) and in South Portland, Maine (“the South Portland Facility”). The NOV describes EPA’s findings that Sprague has violated and continues to violate the Act and the federally-enforceable Maine state implementation plan (“SIP”).

2. The Maine SIP includes various federally-approved portions of Air Pollution Control regulations, Chapters 100 et al. (“ME APC Regulations”), which were promulgated by the Maine Department of Environmental Protection (“ME DEP”).¹ These requirements are enforceable by EPA under Section 113 of the Act.

3. Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), requires that whenever EPA finds that any person has violated or is in violation of any requirement or prohibition of an applicable

¹ The federally-enforceable versions of the ME APC Regulations contained in the SIP, which can be found on EPA’s website at http://www.epa.gov/region1/topics/air/sips/sips_me.html, are cited herein. The comparable Maine rules can be viewed at <http://www.maine.gov/dep/air/rules/index.html>.

SIP, EPA shall notify the person of such finding.

FACTUAL BACKGROUND

4. Sprague owns and operates a petroleum bulk terminal facility located on Trundy Road in Searsport, Maine. The Searsport Facility stores and distributes #6 fuel oil and asphalt, activities that emit VOCs.
5. On July 26, 2011 EPA inspectors performed an inspection at the Searsport Facility.
6. Sprague owns and operates a petroleum bulk terminal facility located at 59 Main Street in South Portland, Maine. The South Portland Facility stores and distributes #6 fuel oil and asphalt, activities that emit VOCs.
7. On July 28, 2011 EPA inspectors performed an inspection at the South Portland Facility.
8. On December 23, 2010, September 27, 2011 and March 29, 2012, EPA issued Clean Air Act Reporting Requirements and Testing Orders to Sprague.
9. Sprague submitted timely responses to the Reporting Requirements.
10. In response to the Testing Order and Reporting Requirement issued by EPA on September 27, 2011, Sprague submitted a Test Protocol that was conditionally approved by EPA on May 3, 2012.
11. Sprague completed VOC and HAP emissions testing for #6 oil at its Searsport Facility on July 13, 2012, and submitted a test report on October 19, 2012. Sprague completed VOC and HAP emissions testing for asphalt at its Searsport Facility on May 22, 2013, and submitted a final test report on July 31, 2013.

LEGAL FINDINGS AND NOTICE OF VIOLATIONS

12. Under the SIP at ME APC Regulation Chapter 115, Emission License Regulations (“Chapter 115”), § II.A, no person may emit any air contaminant from any source without an air emission license unless the source is exempt under Chapter 115, § II.C.
13. The Searsport Facility is not exempt from licensing under the SIP at Chapter 115, § II.C, as its VOC emissions during testing exceeded 100 lb/day and 10 lb/hr, and its tank capacity exceeds 39,000 gallons.
14. The Searsport Facility has an Air Emissions License issued by the ME DEP on May 21, 2013. The Air Emissions License does not address emissions from the storage and distribution of #6 oil and asphalt. The Air Emissions License restricts facility-wide VOC emissions to no more than 0.3 tons per year.
15. As a stationary source that emits VOCs from #6 oil and asphalt, Sprague must obtain a license addressing the #6 oil and asphalt storage and distribution activities at the Searsport Facility and requiring, at a minimum, “best practical treatment” under Chapter 115, § V.A.2.a. To date, Sprague has not done so. The Searsport Facility has also exceeded the facility-wide VOC emissions limit in the Air Emission License. Accordingly, Sprague has violated and continues to violate the Air Emission License and the SIP.
16. The South Portland Facility is not exempt from licensing under the SIP at Chapter 115, § II.C, as the VOC emissions test results from the Searsport Facility indicate that South Portland emissions are likely to exceed 100 lb/day and 10 lb/hr. Furthermore its tank capacity exceeds 39,000 gallons.

17. The South Portland Facility has an Air Emissions License issued by the ME DEP on March 29, 2011. The Air Emissions License does not address emissions from the storage and distribution of #6 oil and asphalt.

18. As a stationary source that emits VOCs from #6 oil and asphalt, Sprague must obtain a license addressing the #6 oil and asphalt storage and distribution activities at the South Portland Facility and requiring, at a minimum, “best practical treatment” under Chapter 115, § V.A.2.a. To date, Sprague has not done so. Accordingly, Sprague has violated and continues to violate the SIP.

ENFORCEMENT

19. EPA may take any or all of the following actions: (a) issue an order requiring compliance with the Act; (b) issue an administrative penalty order; or (c) bring a civil action in federal district court for an injunction and/or monetary penalties up to \$37,500 per day for each violation. See Sections 113(a), (b) and (d) of the Act, 42 U.S.C. §§ 7413(a), (b) and (d), and 40 C.F.R. Part 19 as amended by 73 Fed. Reg. 75340-46 (Dec. 11, 2008) (Clean Air Act judicial and administrative penalties raised from up to \$25,000 to \$37,500 per day effective December 6, 2013). Be advised that Section 113(e)(2) of the Act, 42 U.S.C. § 7413(e)(2), contains provisions that affect the burden of proof with respect to violations which continue or recur on or after the date of issuance of this NOV.

20. If Sprague has knowingly violated the requirements of the Act, Sprague and its responsible corporate officers may be subject to criminal penalties under Title 18 of the United States Code, imprisonment for not more than five years, or both. See Section 113(c) of the Act, 42 U.S.C. § 7413(c).

21. Be advised that issuance of this NOV does not preclude EPA from electing to pursue any other remedies or sanctions authorized by law which are available to address these violations.

OPPORTUNITY TO CONFER

22. Sprague may confer with EPA concerning this NOV and the findings on which it is based. To schedule a conference, or to ask any questions, please contact Senior Enforcement Counsel Thomas T. Olivier at (617) 918-1737, or Environmental Engineer Elizabeth Kudarauskas at (617) 918-1564.

EFFECTIVE DATE AND APPLICABILITY

23. This NOV is effective as of the date signed below. The provisions of this NOV apply to Sprague, its officers, agents, servants, employees, successors, and assigns, and to all persons, firms, and corporations acting under, through, or for Sprague. The NOV is not subject to Office of Management and Budget review under the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

Sam Silverman, acting for
Susan Studlien, Director
Office of Environmental Stewardship
U.S. EPA, Region 1

4-11-14
Date



Office of Enforcement and Compliance Assurance
INFORMATION SHEET

U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance resources such as workshops, training sessions, hotlines, websites, and guides to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance, and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Compliance Assistance Centers

(www.assistancecenters.net)

In partnership with industry, universities, and other federal and state agencies, EPA has established Compliance Assistance Centers that provide information targeted to industries with many small businesses.

Agriculture

(www.epa.gov/agriculture or 1-888-663-2155)

Automotive Recycling Industry

(www.ecarcenter.org)

Automotive Service and Repair

(www.ccar-greenlink.org or 1-888-GRN-LINK)

Chemical Industry

(www.chemalliance.org)

Construction Industry

(www.cicacenter.org or 1-734-995-4911)

Education

(www.campuserc.org)

Healthcare Industry

(www.hercenter.org or 1-734-995-4911)

Metal Finishing

(www.nmfrc.org or 1-734-995-4911)

Paints and Coatings

(www.paintcenter.org or 1-734-995-4911)

Printed Wiring Board Manufacturing

(www.pwbrc.org or 1-734-995-4911)

Printing

(www.pneac.org or 1-888-USPNEAC)

Transportation Industry

(www.transource.org)

Tribal Governments and Indian Country

(www.epa.gov/tribal/compliance or 202-564-2516)

US Border Environmental Issues

(www.bordercenter.org or 1-734-995-4911)

The Centers also provide State Resource Locators (www.envcap.org/statetools/index.cfm) for a wide range of topics to help you find important environmental compliance information specific to your state.

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page

www.epa.gov

Small Business Gateway

www.epa.gov/smallbusiness

Compliance Assistance Home Page

www.epa.gov/compliance/assistance

Office of Enforcement and Compliance Assurance

www.epa.gov/compliance

Voluntary Partnership Programs

www.epa.gov/partners



U.S. EPA SMALL BUSINESS RESOURCES

Hotlines, Helplines & Clearinghouses

(www.epa.gov/epahome/hotline.htm)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. A few examples are listed below:

Clean Air Technology Center

(www.epa.gov/ttn/catc or 1-919-541-0800)

Emergency Planning and Community Right-To-Know Act

(www.epa.gov/superfund/resources/infocenter/epcra.htm or 1-800-424-9346)

EPA's Small Business Ombudsman Hotline provides regulatory and technical assistance information.
(www.epa.gov/sbo or 1-800-368-5888)

The National Environmental Compliance Assistance

Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers
(www.epa.gov/clearinghouse)

National Response Center to report oil and hazardous substance spills.

(www.nrc.uscg.mil or 1-800-424-8802)

Pollution Prevention Information Clearinghouse

(www.epa.gov/opptintr/ppic or 1-202-566-0799)

Safe Drinking Water Hotline

(www.epa.gov/safewater/hotline/index.html or 1-800-426-4791)

Stratospheric Ozone Refrigerants Information

(www.epa.gov/ozone or 1-800-296-1996)

Toxics Assistance Information Service also includes asbestos inquiries.

(1-202-554-1404)

Wetlands Helpline

(www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828)

State Agencies

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information or the following two resources:

EPA's Small Business Ombudsman

(www.epa.gov/sbo or 1-800-368-5888)

Small Business Environmental Homepage

(www.smallbiz-enviroweb.org or 1-724-452-4722)

Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated,

businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses:

The Small Business Compliance Policy

(www.epa.gov/compliance/incentives/smallbusiness)

Audit Policy

(www.epa.gov/compliance/incentives/auditing)

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an SBA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System (NAICS) designation, number of employees, or annual receipts, defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.